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From:

Sent: Thursday, January 27, 2011 9:44:30 AM

To:

Cc:

Subject: Guaranteeing a Loan

This is in response to your voice message.

With respect to the issue concerning signing personally as guarantors of a note, Congress stated in the ERISA Conference Report that, "...a prohibited transaction generally will occur if a loan to a plan is guaranteed by a party-in-interest [disqualified person], unless it comes within the special exemption for employee stock ownership plans." H.R. Rep. No. 1280, 93d Cong., 2d Sess., at 308 (1974). Consequently, a guarantee of a plan's indebtedness by a fiduciary or other disqualified person is an extension of credit to the plan in violation of section 4975(c)(1)(B) of the Code. See the attached DOL Advisory Opinion 90-33A (July 3, 1990) and DOL Advisory Opinion 2009-03A (October 27, 2009).